

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT**

**DAVID WAYNE BARRON,
Plaintiff**

v.

File No. 1:09-CV-209

**ANDREW PALLITO, PRISON HEALTH
SERVICES, INC., DELORES
BURROUGHS-BIRON, BALLARD,
GARRY WEISCHEDEL, RANDY PORTER,
THERESA STONE, CAROL CALLEA,
ISENOR, KEVIN JENKINS, JODY
BERRIER, MARK HATCHER, MENTAL
HEALTH MANAGEMENT, INC.,
Defendants**

ORDER

The Magistrate Judge's Report and Recommendation was filed January 25, 2010. (Paper 32.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Defendants' motions to dismiss (Papers 11, 16, 27 and 29) are GRANTED. Plaintiff shall file an amended complaint on or before May 17, 2010.

Plaintiff's first motion for preliminary injunctive relief (Paper 3) is DENIED without prejudice. As to Plaintiff's second motion for injunctive relief (Paper 22), all defendants shall, within 14 days after responding to the amended complaint, file a memorandum showing cause why the motion should not be granted.

Pursuant to Plaintiff's first amendment to the complaint (Paper 20 at 2), all claims against defendants Hatcher, Callea and Isenor are DISMISSED without prejudice.

This matter is returned to Magistrate Judge John M. Conroy for further proceedings.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 2nd day of April, 2010.

/s/ J. Garvan Murtha

Honorable J. Garvan Murtha

Senior United States District Judge